

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YEMISI AKINYEMI,

Case No. 07 CV 4048
(AJP)

Plaintiff

-against-

MICHAEL CHERTOFF,
SECRETARY, DEPARTMENT OF HOMELAND
SECURITY,

Defendant

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**MEMORANDUM OF LAW IN SUPPORT
OF PLAINTIFF'S MOTION IN LIMINE**

PRELIMINARY STATEMENT

The memorandum is submitted in support of Plaintiff's motion *in limine*, pursuant to Federal Rules of Evidence, Sections 402, 403, 404, 609, 802 and 901, for an Order to excluding certain evidence which the defendants intends to offer at the trial of this action.

Previous motion practice has been made in this case which apprized the court of the basic facts relevant to this motion. Therefore, plaintiff will not repeat those facts. As the court is aware, the plaintiff's claim is simply that her employment with CBP was unlawfully terminated in December 2005 because she is an African American and of Nigerian national origin.

ARGUMENT

I. Susan T. Mitchell

It is anticipated that Ms. Mitchell intends to testify concerning 'airport security procedures'. To the extent that the airport security procedures which she will testify to relates to Newark Airport, she should be precluded on the ground that such testimony would be inadmissible hearsay. Ms. Mitchell who was several steps removed from the highest CBP official stationed at Newark Airport, did not work at that location and has no first hand knowledge of the security procedures at that airport.

II. Defendant'S Exhibits 123 through 134 (Schedule G2 JPTO)

The court should preclude the introduction of these exhibits on several grounds. First, while they may have a tangential bearing on the equitable remedies to be considered by the court, they have no relevance to any of the issues to be tried to the jury. Second, their prejudicial effect far outweighs their probative value. Third, they are cumulative of the testimonies of Ms. Mitchell and Ms. Haage-Gaynor. Finally, these exhibits contain inadmissible hearsay.

III. Defendants Exhibits 136, 137, 139, 140

The court should exclude these exhibits on the same ground noted in II above.

CONCLUSION

For the foregoing reasons, plaintiff's motion *in limine* should be granted in its entirety.

Dated: New York, New York
June 2, 2008

Respectfully submitted,

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